

Executive Summary – Enforcement Matter – Case No. 46400

PHILLIPS 66 COMPANY

RN102495884

Docket No. 2013-0502-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Borger Refinery, State Spur 119 North, Borger, Hutchinson County

Type of Operation:

Petroleum refinery

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket Nos.: 2013-2001-AIR-E, 2014-0250-AIR-E, and 2014-1119-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 15, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$43,938

Amount Deferred for Expedited Settlement: \$8,787

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$17,576

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$17,575

Name of SEP: Borger Independent School District (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 46400

PHILLIPS 66 COMPANY

RN102495884

Docket No. 2013-0502-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 8, 2012 through August 9, 2012, September 14, 2012, and February 21, 2013

Date(s) of NOE(s): August 15, 2012, October 11, 2012, and April 4, 2013

Violation Information

Failed to prevent unauthorized emissions. Specifically, the Respondent experienced 96% opacity and released 63,000 pounds ("lbs") of particulate matter ("PM"), 5,101 lbs of carbon monoxide ("CO"), 435 lbs of sulfur dioxide ("SO₂"), 349.71 lbs of volatile organic compounds ("VOC"), 25 lbs of nickel, 24.12 lbs of nitrogen oxides ("NO_x"), 5.36 lbs of hydrogen sulfide ("H₂S"), and 3 lbs of lead from Emission Point Numbers ("EPNs") 66FL12 and 40P1 during an avoidable emissions event (Incident No. 168376) that began on May 13, 2012 and lasted 334 hours and 48 minutes. The event occurred when the steam supply to the Plant was interrupted due to shut down of Unit 1 at the Blackhawk Power Plant. Since this event could have been foreseen and avoided because it is part of a frequent or recurring pattern, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Flexible Permit Nos. 9868A and PSDTX102M7, Special Conditions ("SC") No. 1, and Federal Operating Permit ("FOP") No. O1440, Special Terms and Conditions ("STC") No. 20].

2. Failed to prevent unauthorized emissions. Specifically, the Respondent experienced 90% opacity and released 6,800 lbs of PM, 3.5 lbs of nickel, and 0.3 lb of lead from EPN 40P1 during an avoidable emissions event (Incident No. 167930) that began on April 29, 2012 and lasted 16 hours and 11 minutes. The event occurred when the steam supply to the Plant was interrupted due to shut down of Unit 1 at the Blackhawk Power Plant. Since this event could have been foreseen and avoided because it is part of a frequent or recurring pattern, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Flexible Permit Nos. 9868A and PSDTX102M7, SC No. 1, and FOP No. O1440, STC No. 20].

Executive Summary – Enforcement Matter – Case No. 46400
PHILLIPS 66 COMPANY
RN102495884
Docket No. 2013-0502-AIR-E

3. Failed to prevent unauthorized emissions. Specifically, the Respondent released 1,200 lbs of SO₂, 98.88 lbs of VOC, 28.53 lbs of CO, 14 lbs of H₂S, and 9.15 lbs of NO_x from EPN 66FL12 during an emissions event (Incident No. 169193) that began on June 1, 2012 and lasted 49 minutes. The event occurred when the Unit 50 Coker Wet Gas Compressor shut down due to a faulty vibration probe, which resulted in flaring from the Coker fractionators overhead. Since this event was not properly reported, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Flexible Permit Nos. 9868A and PSDTX102M7, SC No. 1, and FOP No. O1440, STC No. 20].

4. Failed to submit a final record for Incident No. 169193 no later than two weeks after the end of the emissions event. Specifically, the final report was due by June 15, 2012, but was not submitted until June 18, 2012 [30 TEX. ADMIN. CODE § 101.201(b) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5. Failed to prevent unauthorized emissions. Specifically, the Respondent experienced 74% opacity and released 18,600 lbs of PM, 5,019 lbs of CO, 6 lbs of nickel, and 0.32 lb of lead from EPN 40P1 during an emissions event (Incident No. 177008) that began on December 10, 2012 and lasted 21 hours and 47 minutes. The event occurred when the Unit 40 Boiler tripped due to a false level indication caused by a lack of steam tracing or insulation of the unit. Since this event could have been avoided by better operation practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Flexible Permit Nos. 9868A and PSDTX102M7, SC No. 1, and FOP No. O1440, STC No. 20].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. By June 19, 2012, revised the Release Event Reporting Procedures, trained personnel on the importance of timely submitting complete and accurate final records for emissions events, and added a TCEQ/Local Emergency Planning Committee follow-up reminder task in the Environmental Management System (Enviance);
- b. By September 7, 2012, obtained Standard Permit Registration No. 104928 to operate five temporary boilers as a backup steam supply in order to minimize or eliminate emissions events due to similar causes as Incident Nos. 167930 and 168376;
- c. By November 15, 2012, revised the Wet Gas Compressor Procedure, replaced the Seal Gas Differential Pressure Control Valve during a Unit 50 Coker shut down, and revised instrumentation and logic on the Unit 50 Coker Wet Gas Compressor in order to prevent a recurrence of emissions events due to similar causes as Incident No. 169193; and

Executive Summary – Enforcement Matter – Case No. 46400
PHILLIPS 66 COMPANY
RN102495884
Docket No. 2013-0502-AIR-E

d. By November 27, 2013, added steam tracing and insulation to the Unit 58 Deaerator and revised the critical instrumentation winterization preventative maintenance process in order to prevent a recurrence of emissions events due to similar causes as Incident No. 177008.

Technical Requirements:

The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jessica Schildwachter, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-2617; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: Peter C. Stynes, Refinery Manager, PHILLIPS 66 COMPANY, P.O. Box 271, Borger, Texas 79008

Sandy Keys, Environmental Team Lead, PHILLIPS 66 COMPANY, P.O. Box 271, Borger, Texas 79008

Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-0502-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	PHILLIPS 66 COMPANY
Penalty Amount:	Thirty-Five Thousand One Hundred Fifty-One Dollars (\$35,151)
SEP Offset Amount:	Seventeen Thousand Five Hundred Seventy-Five Dollars (\$17,575)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Borger Independent School District
Project Name:	<i>Borger ISD Clean School Bus Replacement Program</i>
Location of SEP:	Hutchinson County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Borger Independent School District** for the *Borger ISD Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel and gasoline buses with newer buses that meet more stringent emission standards. The Third-Party Administrator shall use SEP Offset Amount for up to 100% of the purchase price of a model year 2010 or newer bus to replace a diesel or gasoline school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

PHILLIPS 66 COMPANY
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Borger Independent School District SEP** and mail the contribution with a copy of the Agreed Order to:

Borger Independent School District
200 East Ninth Street
Borger, Texas 79008-1177

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	20-Aug-2012	Screening	7-Mar-2013	EPA Due	11-May-2013
	PCW	6-Jun-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	PHILLIPS 66 COMPANY		
Reg. Ent. Ref. No.	RN102495884		
Facility/Site Region	1-Amarillo	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	46400	No. of Violations	5
Docket No.	2013-0502-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jessica Schildwachter
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	100.0% Enhancement	Subtotals 2, 3, & 7	\$22,750
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Notes Enhancement for seven orders with denial of liability and three orders without denial of liability. Reduction for eight notices of intent to conduct an audit and three disclosures of violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,562
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$160
Approx. Cost of Compliance \$5,500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$43,938
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$43,938
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$43,938
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DEFERRAL	20.0% Reduction	Adjustment	-\$8,787
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$35,151
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Screening Date 7-Mar-2013

Docket No. 2013-0502-AIR-E

PCW

Respondent PHILLIPS 66 COMPANY

Policy Revision 3 (September 2011)

Case ID No. 46400

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102495884

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	7	140%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	3	75%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	8	-8%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	3	-6%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 201%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for seven orders with denial of liability and three orders without denial of liability.
Reduction for eight notices of intent to conduct an audit and three disclosures of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 201%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 7-Mar-2013

Docket No. 2013-0502-AIR-E

PCW

Respondent PHILLIPS 66 COMPANY

Policy Revision 3 (September 2011)

Case ID No. 46400

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102495884

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(3), 116.715(a), and 122.143(4), Tex. Health & Safety Code § 382.085(b), Flexible Permit Nos. 9868A and PSDTX102M7, Special Conditions ("SC") No. 1, and Federal Operating Permit ("FOP") No. O1440, Special Terms and Conditions ("STC") No. 20

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent experienced 96% opacity and released 63,000 pounds ("lbs") of particulate matter ("PM"), 5,101 lbs of carbon monoxide ("CO"), 435 lbs of sulfur dioxide ("SO2"), 349.71 lbs of volatile organic compounds ("VOC"), 25 lbs of nickel, 24.12 lbs of nitrogen oxides ("NOx"), 5.36 lbs of hydrogen sulfide ("H2S"), and 3 lbs of lead from Emission Point Numbers ("EPNs") 66FL12 and 40P1 during an avoidable emissions event (Incident No. 168376) that began on May 13, 2012 and lasted 334 hours and 48 minutes. The event occurred when the steam supply to the Plant was interrupted due to shut down of Unit 1 at the Blackhawk Power Plant. Since this event could have been foreseen and avoided because it is part of a frequent or recurring pattern, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Based on the Air Quality Analysis of modeling provided by the Respondent, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

14 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$750

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent completed corrective actions by September 7, 2012 after the August 15, 2012 NOE.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$14,250

This violation Final Assessed Penalty (adjusted for limits) \$14,250

Economic Benefit Worksheet

Respondent PHILLIPS 66 COMPANY
Case ID No. 46400
Reg. Ent. Reference No. RN102495884
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit for this violation is included in Violation No. 2.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 7-Mar-2013

Docket No. 2013-0502-AIR-E

PCW

Respondent PHILLIPS 66 COMPANY

Policy Revision 3 (September 2011)

Case ID No. 46400

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102495884

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(3), 116.715(a), and 122.143(4), Tex. Health & Safety Code § 382.085(b), Flexible Permit Nos. 9868A and PSDTX102M7, SC No. 1, and FOP No. Q1440, STC No. 20

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent experienced 90% opacity and released 6,800 lbs of PM, 3.5 lbs of nickel, and 0.3 lb of lead from EPN 40P1 during an avoidable emissions event (Incident No. 167930) that began on April 29, 2012 and lasted 16 hours and 11 minutes. The event occurred when the steam supply to the Plant was interrupted due to shut down of Unit 1 at the Blackhawk Power Plant. Since this event could have been foreseen and avoided because it is part of a frequent or recurring pattern, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$375

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent completed corrective actions by September 7, 2012 after the August 15, 2012 NOE.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$7,125

This violation Final Assessed Penalty (adjusted for limits) \$7,125

Economic Benefit Worksheet

Respondent PHILLIPS 66 COMPANY
Case ID No. 46400
Reg. Ent. Reference No. RN102495884
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	29-Apr-2012	7-Sep-2012	0.36	\$18	n/a	\$18

Notes for DELAYED costs

Estimated cost to obtain an authorization for five temporary boilers as a backup steam supply in order to minimize or eliminate emissions events due to similar causes as Incident Nos. 167930 and 168376. The date required is the date the first emissions event began. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$18

Screening Date 7-Mar-2013

Docket No. 2013-0502-AIR-E

PCW

Respondent PHILLIPS 66 COMPANY

Policy Revision 3 (September 2011)

Case ID No. 46400

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102495884

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(3), 116.715(a), and 122.143(4), Tex. Health & Safety Code § 382.085(b), Flexible Permit Nos. 9868A and PSDTX102M7, SC No. 1, and FOP No. O1440, STC No. 20

Violation Description

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Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$375

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent completed corrective actions by November 15, 2012 after the October 11, 2012 NOE.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$46

Violation Final Penalty Total \$7,125

This violation Final Assessed Penalty (adjusted for limits) \$7,125

Economic Benefit Worksheet

Respondent PHILLIPS 66 COMPANY
Case ID No. 46400
Reg. Ent. Reference No. RN102495884
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	1-Jun-2012	15-Nov-2012	0.46	\$46	n/a	\$46

Notes for DELAYED costs

Estimated cost to revise the Wet Gas Compressor Procedure, replace the Seal Gas Differential Pressure Control Valve during a Unit 50 Coker shut down, and revise instrumentation and logic on the Unit 50 Coker Wet Gas Compressor in order to prevent the recurrence of emissions events due to similar causes as Incident No. 169193. The date required is the date of the emissions event. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$46

Screening Date 7-Mar-2013

Docket No. 2013-0502-AIR-E

PCW

Respondent PHILLIPS 66 COMPANY

Policy Revision 3 (September 2011)

Case ID No. 46400

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102495884

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 101.201(b) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit a final record for Incident No. 169193 no later than two weeks after the end of the emissions event. Specifically, the final report was due by June 15, 2012, but was not submitted until June 18, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1.0%

Matrix Notes

The Respondent met at least 70% of the rule requirements.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$62

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent completed corrective actions by June 19, 2012 before the October 11, 2012 NOE.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$438

This violation Final Assessed Penalty (adjusted for limits) \$438

Economic Benefit Worksheet

Respondent PHILLIPS 66 COMPANY
Case ID No. 46400
Reg. Ent. Reference No. RN102495884
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	15-Jun-2012	19-Jun-2012	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to revise the Release Event Reporting Procedures, train personnel on the importance of timely submitting complete and accurate final records for emissions events, and add a follow-up reminder task in the Environmental Management System. The date required is the date the final report was due. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$500	TOTAL	\$0
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Screening Date 7-Mar-2013

Docket No. 2013-0502-AIR-E

PCW

Respondent PHILLIPS 66 COMPANY

Policy Revision 3 (September 2011)

Case ID No. 46400

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102495884

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(3), 116.715(a), and 122.143(4), Tex. Health & Safety Code § 382.085(b), Flexible Permit Nos. 9868A and PSDTX102M7, SC No. 1, and FOP No. O1440, STC No. 20

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent experienced 74% opacity and released 18,600 lbs of PM, 5,019 lbs of CO, 6 lbs of nickel, and 0.32 lb of lead from EPN 40P1 during an emissions event (Incident No. 177008) that began on December 10, 2012 and lasted 21 hours and 47 minutes. The event occurred when the Unit 40 Boiler tripped due to a false level indication caused by a lack of steam tracing or insulation of the unit. Since this event could have been avoided by better operational practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Based on the Air Quality Analysis of modeling provided by the Respondent, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$96

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

Economic Benefit Worksheet

Respondent PHILLIPS 66 COMPANY
Case ID No. 46400
Reg. Ent. Reference No. RN102495884
Media Air
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	10-Dec-2012	27-Nov-2013	0.96	\$96	n/a	\$96

Notes for DELAYED costs

Estimated cost to add steam tracing and insulation to the Unit 85 Deaerator and revise the critical instrumentation winterization preventative maintenance process in order to prevent the recurrence of emissions events due to similar causes as Incident No. 177008. The date required is the date of the emissions event. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$96



Compliance History Report

PUBLISHED Compliance History Report for CN604065912, RN102495884, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN604065912, PHILLIPS 66 COMPANY	Classification:	SATISFACTORY	Rating:	23.38
Regulated Entity:	RN102495884, BORGER REFINERY	Classification:	SATISFACTORY	Rating:	48.49
Complexity Points:	50	Repeat Violator:	NO		
CH Group:	02 - Oil and Petroleum Refineries				
Location:	STATE SPUR 119 NORTH, BORGER, HUTCHINSON COUNTY, TEXAS				
TCEQ Region:	REGION 01 - AMARILLO				

ID Number(s):

POLLUTION PREVENTION PLANNING ID NUMBER P00529

POLLUTION PREVENTION PLANNING ID NUMBER P07213

WASTEWATER PERMIT WQ0001064000

AIR NEW SOURCE PERMITS PERMIT 9868A

AIR NEW SOURCE PERMITS REGISTRATION 11449A

AIR NEW SOURCE PERMITS REGISTRATION 11429A

AIR NEW SOURCE PERMITS REGISTRATION 22777

AIR NEW SOURCE PERMITS PERMIT 43073

AIR NEW SOURCE PERMITS AFS NUM 4823300015

AIR NEW SOURCE PERMITS PERMIT 71385

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1119

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1158

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX102M7

AIR NEW SOURCE PERMITS REGISTRATION 90208

AIR NEW SOURCE PERMITS REGISTRATION 90182

AIR NEW SOURCE PERMITS REGISTRATION 87158

AIR NEW SOURCE PERMITS REGISTRATION 94829

AIR NEW SOURCE PERMITS REGISTRATION 98518

AIR NEW SOURCE PERMITS REGISTRATION 99365

AIR NEW SOURCE PERMITS REGISTRATION 105116

AIR NEW SOURCE PERMITS REGISTRATION 99345

AIR NEW SOURCE PERMITS REGISTRATION 105233

AIR NEW SOURCE PERMITS REGISTRATION 105235

AIR NEW SOURCE PERMITS REGISTRATION 107921

AIR NEW SOURCE PERMITS REGISTRATION 112249

AIR NEW SOURCE PERMITS REGISTRATION 105234

AIR NEW SOURCE PERMITS REGISTRATION 106066

AIR OPERATING PERMITS ACCOUNT NUMBER HW0018P

AIR OPERATING PERMITS PERMIT 2166

UNDERGROUND INJECTION CONTROL PERMIT WDW382

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 30111

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HW0018P

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30111

STORMWATER PERMIT TXR15W016

WASTEWATER EPA ID TX0009148

AIR NEW SOURCE PERMITS REGISTRATION 11042A

AIR NEW SOURCE PERMITS REGISTRATION 11935A

AIR NEW SOURCE PERMITS REGISTRATION 14441A

AIR NEW SOURCE PERMITS REGISTRATION 34417

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HW0018P

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX102M6

AIR NEW SOURCE PERMITS PERMIT 80799

AIR NEW SOURCE PERMITS REGISTRATION 82659

AIR NEW SOURCE PERMITS PERMIT 85872

AIR NEW SOURCE PERMITS REGISTRATION 87666

AIR NEW SOURCE PERMITS REGISTRATION 89064

AIR NEW SOURCE PERMITS REGISTRATION 87458

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX102M8

AIR NEW SOURCE PERMITS REGISTRATION 95901

AIR NEW SOURCE PERMITS REGISTRATION 96328

AIR NEW SOURCE PERMITS REGISTRATION 100477

AIR NEW SOURCE PERMITS REGISTRATION 99373

AIR NEW SOURCE PERMITS REGISTRATION 102757

AIR NEW SOURCE PERMITS REGISTRATION 107922

AIR NEW SOURCE PERMITS REGISTRATION 105145

AIR NEW SOURCE PERMITS REGISTRATION 105237

AIR NEW SOURCE PERMITS REGISTRATION 104928

AIR NEW SOURCE PERMITS REGISTRATION 105147

AIR NEW SOURCE PERMITS REGISTRATION 105236

AIR OPERATING PERMITS PERMIT 1440

UNDERGROUND INJECTION CONTROL PERMIT WDW380

UNDERGROUND INJECTION CONTROL PERMIT WDW325

WASTEWATER PERMIT TXG670145

INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50078

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD980626774

Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012	Rating Date:	09/01/2012
Date Compliance History Report Prepared:	August 07, 2013				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	August 07, 2008 to August 07, 2013				

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**Name:** Kimberly Morales**Phone:** (713) 422-8938**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J**A. Final Orders, court judgments, and consent decrees:**

- 1 Effective Date: 02/08/2009 ADMINORDER 2008-0431-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 113, SubChapter C 113.780
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Part 60, Subpart J 60.103
5C THSC Chapter 382 382.085(b)
Rqmt Prov: 9868A/PSD-TX-102M6 PERMIT
Description: ConocoPhillips Company, Borger Refinery Unit 40 FCCU Stack (EPN 40P1) failed to meet the requirements of Permit No. 9868A/PSD-TX-102M6, 30 TAC §113.780 relating to the National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries, and 40 CFR §60.103. Specifically, during the stack performance test conducted on September 14, 2007, Unit 40 FCCU Stack failed to meet the 500 ppm allowable for Carbon Monoxide.
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: 9868A/PSD-Tx-102M6 PERMIT
Description: The facility failed to prevent unauthorized emissions during the incident No. 103836. The facility did not meet the affirmative defense criteria (b)(2) and (b)(3) of the provisions of 30 TAC Chapter 101.222(b).
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: 9868A/PSD-TX-102M6 PERMIT
Description: The facility is in violation of the provisions of 30 TAC Chapter 116, §116.715(a) by failure to prevent unauthorized emissions during the incident No. 103818.
- 2 Effective Date: 05/18/2009 ADMINORDER 2008-1636-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Permit PERMIT
Special Condition No. 1 PERMIT
Description: Failed to comply with permitted emissions limits for nitrogen oxides. Specifically, on September 3, 2008, Refinery Boiler 2.4 (EPN 81B17) exceeded the nitrogen oxides emissions subcap limit.
- 3 Effective Date: 11/27/2009 ADMINORDER 2009-0129-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 111, SubChapter A 111.111(a)(1)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Conditions 1 and 23 PERMIT
Description: Failed to comply with permitted emissions limits. Specifically, during an emissions event on June 1, 2008, a tube failure occurred on Boiler 2.4 causing a steam system upset impacting most of the plant: the gas oil

hydrodesulfurizer hydrocarbons ("GOHDS HC") Flare [Emissions Point Number ("EPN") 66FL12], the Cat Flare (EPN 66FL3), Unit 40 Fluid Catalytic Cracking Unit ("FCCU") (EPN 40PI), Unit 34 Sulfur Recovery Unit ("SRU") Incinerator (EPN 34I1), and Unit 43 SRU (EPN 43I1) emitted . . .

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 1 PERMIT

Description: Failed to comply with permitted emissions limits. Specifically, during an emissions event on June 29, 2008, hydrocarbon contamination of the Central Still Amine Absorber caused a shut down, and the Unit 34 SRU Incinerator (EPN 34I1) emitted 464 lbs of SO₂, 175 lbs of H₂S, 2.1 lbs of NO_x, and 0.55 lb of CO over a 34 minute period. Since these emissions could have been avoided by better design and/or operational practices, the emissions are not subject to an affirmative defense . . .

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 1 PERMIT

Description: Failed to comply with permitted emissions limits. Specifically, during an emissions event on July 19, 2008, the Unit 34 Tail Gas Treatment Unit stripper foamed, causing a unit shut down, and the Unit 34 SRU Incinerator (EPN 34I1) emitted 716 lbs of SO₂, 7.62 lbs of H₂S, 1.53 lbs of NO_x, and 0.38 lb of CO over a 23 minute period. Since these emissions could have been avoided by better design and/or operational practices, the emissions are not subject to an affirmative defense . . .

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 1 PERMIT

Description: Failed to comply with permitted emissions limits. Specifically, during an emissions event on July 29, 2008, flaring occurred at the atmospheric residual desulfurization ("ARDS") Flare (EPN 66FL12) due to a pressure increase in the first stage suction scrubber in the Flash Gas Compressor in Unit 41, and the flare emitted 639 lbs of SO₂, seven lbs of H₂S, 0.86 lb of NO_x, 1.03 lbs of CO, and 3.37 lbs of VOC over a 20 minute period. Since these emissions were not timely reported . . .

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter X 106.533(j)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Failed to notify the Amarillo Regional Office of the TCEQ prior to initiating remediation activities. Specifically, the Respondent began the operation of a soil and groundwater remediation system at the Plant's Patton Creek area without notifying the Amarillo Regional Office.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter X 106.533(j)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Failed to notify the Amarillo Regional Office of the TCEQ prior to initiating remediation activities. Specifically, the Respondent began the operation of a soil and groundwater remediation system at the Plant's Area 1 (also known as North Coble) without notifying the Amarillo Regional Office.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382 382.0518(a)
5C THSC Chapter 382 382.085(b)

Description: Failed to have authorization to operate a source of air emissions. Specifically, the Respondent began the operation of a soil and groundwater remediation system at the Plant's Area 3 without notice or authorization. Emissions data subsequently submitted by the Respondent on November 21, 2008, in connection with attempting to claim Permit by Rule authorization for the system, established that emissions were above those authorized by Permit by Rule.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter X 106.533(j)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Failed to notify the Amarillo Regional Office of the TCEQ prior to initiating remediation activities. Specifically, the Respondent began the operation of a soil and groundwater remediation system at the Plant's Area 4 without notifying the Amarillo Regional Office.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter X 106.533(j)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Failed to notify the Amarillo Regional Office of the TCEQ prior to initiating remediation activities. Specifically,

the Respondent began the operation of a soil and groundwater remediation system at the Plant's HP-7 remediation site without notifying the Amarillo Regional Office.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter X 106.533(j)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Failed to notify the Amarillo Regional Office of the TCEQ prior to initiating remediation activities. Specifically, the Respondent began the operation of a soil and groundwater remediation system at the Plant's Jackson's Hole remediation site without notifying the Amarillo Regional Office.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter X 106.533(j)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Failed to notify the Amarillo Regional Office of the TCEQ prior to initiating remediation activities. Specifically, the Respondent began the operation of a soil and groundwater remediation system at the Plant's Old Canyon Dam (also known as Area 3A) without notifying the Amarillo Regional Office.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter X 106.533(j)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Failed to notify the Amarillo Regional Office of the TCEQ prior to initiating remediation activities. Specifically, the Respondent began the operation of a soil and groundwater remediation system at the Plant's Lot 7 remediation site without notifying the Amarillo Regional Office.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter X 106.533(j)(1)(B)
5C THSC Chapter 382 382.085(b)

Description: Failed to notify the Amarillo Regional Office of the TCEQ prior to initiating remediation activities. Specifically, the Respondent began the operation of a soil and groundwater remediation system at the Plant's Old Caustic Pond remediation site without notifying the Amarillo Regional Office.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 2B PERMIT

Description: Failed to maintain instrument monitoring of the flare pilot flame. Specifically, the Non-Corrosive Flare's (EPN 66FL4) pilot flame was not monitored by instrument on the following dates: December 22, 2007, March 3, May 7, and May 8, 2008.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 2C PERMIT

Description: Failed to operate flares with no visible emissions, except for periods not to exceed a total of five minutes during any two consecutive hours. Specifically, those conditions were exceeded at the 100M Sour Water Treater Brine Flare Pit (EPN 66FL10) on March 13, 2008, at the ARDS Emergency Sulfur Flare (EPN 66FL13) on May 23, 2008, and at the Natural Gas Liquids Non-Corrosive Flare (EPN 66FL4) on March 7 and June 16, 2008.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 10 PERMIT

Description: Failed to operate the SRU Tail Gas Incinerator with no visible emissions, except for uncombined steam. Specifically, visible emissions were observed from the Unit 43 incinerator stack on January 11 and April 2, 2008.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 11 PERMIT

Description: Failed to operate the SRU thermal reactor at all times with a stable flame and to maintain the flame temperature at not less than 2,000 degrees Fahrenheit. Specifically, the SRU Unit 43 A's Thermal Reactor did not maintain the required flame and temperature on November 12, 2007.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 14 PERMIT

Description: Failed to maintain the SRU 43 sulfur pit connected to a vapor collection system which routes the recovered vapors back into the process. Specifically, the SRU Unit 43 vapor collection system was not operational on January 2 and

April 9, 2008.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 28 PERMIT

Description: Failed to limit the fuel gas used to fire all of the Plant's heaters, boilers, and TGIs to a short term H2S concentration of no more than 162 parts per million volume. Specifically, the fuel gas exceeded that concentration on August 9, 2007 and March 9, 2008.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 41 PERMIT

Description: Failed to limit NOX emissions from an engine. Specifically, Engine 47 in Unit 12 (EPN 12E7), a White Superior engine, failed the NOX emissions limit of 2.0 grams per horse-power hour during a stack test on October 2, 2007.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 55 PERMIT

Description: Failed to ensure that a minimum coke moisture content of six percent by weight was maintained during coke handling and storage operations. Specifically, 60 samples taken between December 3, 2007 and December 23, 2008 showed moisture content between 0.7 and 5.95%.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC59B PERMIT

Description: Failed to take samples and perform moisture analyses of coke piles. Specifically, the Respondent failed to do the sampling and analyses on the following dates: November 27, December 13, December 21, December 23, December 27, 2007, January 30, February 4, April 21, and April 26, 2008.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.102(a)(1)
5C THSC Chapter 382 382.085(b)

Description: Failed to limit PM emissions from the Unit 29 FCCU catalyst regenerator to no more than 1.0 kilograms per megagram (2.0 lb/ton). Specifically, a test conducted on December 6, 2007 showed that limit was exceeded.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 111, SubChapter A 111.111(a)(1)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 116, SubChapter G 116.715(c)(7)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 1 PERMIT

SC 23 PERMIT

Description: Failed to comply with permitted emissions limits. Specifically, during an emissions event on January 17, 2009, contaminated amine caused a temperature excursion and shut-down of the SRU 34 Feed Heater due to faulty level transmitters and the design of the level gauges, which made it difficult for plant operations to see the actual level of the absorbers. This condition, in turn, resulted in the following unauthorized emissions from the SRU incinerator (EPN 34I1):

4 Effective Date: 12/18/2009 ADMINORDER 2009-1156-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: No. 9868A and PSD-TX-10M7, SC 1 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)

5C THSC Chapter 382 382.085(b)
Rqmt Prov: Flex Permit 9868A and PSD-TX-102, SC 1 PERMIT
Description: Failed to prevent unauthorized emissions.

- 5 Effective Date: 09/26/2010 ADMINORDER 2010-0178-AIR-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: PSDTX102M7, Special Condition (SC) No.1 PERMIT
Description: Failure to prevent unauthorized emissions from the GOHDS flare on August 17, 2009.
Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Provision No. 18 OP
Description: Failed to submit a complete deviation report no later than 30 days after the end of the reporting period.
Classification: Moderate
Citation: 30 TAC Chapter 113, SubChapter C 113.1090
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6640(a)
5C THSC Chapter 382 382.085(b)
Description: Failure to maintain Unit 12, Engine 42's catalyst on March 27, 2009 so that the pressure drop across the catalyst does not exceed the limits established during the performance test.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.106(j)(1)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Special Terms and Conditions No. 1.A. OP
Description: Failure to collect one fresh feed sulfur sample once per eight-hour period.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.357(a)
5C THSC Chapter 382 382.085(b)
Description: Failure to submit the initial required benzene reports within 90 days of startup for the following units, which were started in June 2007: Unit 50 (Coker), Unit 51 (Vacuum), and Unit 19.3 (Hydrogen).
Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)
5C THSC Chapter 382 382.085(b)
Description: Failure to submit a complete final report for emissions event No. 124305 which occurred on May 15, 2009.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: PSDTX102M7, SC No.1 PERMIT
Description: Failure to prevent unauthorized emissions from the Unit 34 incinerator stack on November 10, 2009.

- 6 Effective Date: 11/15/2010 ADMINORDER 2010-0675-AIR-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Flexible Permit 9868A, SC 1 PERMIT
Description: Failed to prevent unauthorized emissions. Since this event could have been avoided by better maintenance procedures for air cooler belts, the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Flexible Permit 9868A, SC 1 PERMIT

Description: Failed to prevent unauthorized emissions. Since this event could have been avoided by either protecting the current power source, or ensuring backup power, the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met.

- 7 Effective Date: 05/08/2011 ADMINORDER 2010-1795-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Major
Citation: 30 TAC Chapter 122, SubChapter C 122.221(a)
5C THSC Chapter 382 382.0541(a)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: O-01440 OP
Description: Failed to obtain significant revision of the Borger Refinery's federal operating permit, prior to the issuance of the revised federal operating permit in violation of 30 Tex. Admin. Code Ch. 122.221(a) and Tex. Health & Safety Code Ch. 382.0541(a)(1). Specifically, the respondent failed to obtain admendments associated with the modification to the Borger Refinery called the "Gasoline Benzene Reduction Project".
- 8 Effective Date: 11/03/2011 ADMINORDER 2011-0326-AIR-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: 9868A and PSDTX102M7, SC 1 PERMIT
Description: Failed to prevent unauthorized emissions.
Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter F 116.615(4)
5C THSC Chapter 382 382.085(b)
Description: Failed to submit notification for the start of construction and completion of construction within 15 days of occurrence of the event.
Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter F 116.615(5)
5C THSC Chapter 382 382.085(b)
Description: Failed to submit notification prior to the commencement of operation.
Classification: Moderate
Citation: 30 TAC Chapter 113, SubChapter C 113.1090
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6640(a)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: FOP O1440, General Terms and Conditions OP
Description: Failed to maintain the temperature of the stationary reciprocating internal combustion engine exhaust so the catalyst inlet temperature is greater than or equal to 750°F.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(f)(2)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: 9868A and PSDTX102M7, SC 2.B. PERMIT
FOP O1440, ST&C 17.A. OP
Description: Failed to monitor the pilot flame with a thermocouple, an infrared monitor, or equivalent device.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter G 116.715(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT J 60.104(a)(1)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: 9868A and PSDTX102M7, SC 27 PERMIT
FOP O1440, ST&C 17.A. OP
Description: Failed to maintain the H2S concentration in the fuel gas used to fire all heaters, boilers, and tail gas incinerators below 162 ppmv.
Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.650(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT Q 63.427(a)(3)

5C THSC Chapter 382 382.085(b)
 Rqmt Prov: FOP O1440, General Terms and Conditions OP
 Description: Failed to operate and maintain a continuous monitoring system capable of measuring the temperature of the thermal oxidizer.
 Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: 9868A and TSDTX102M7, SC 1 PERMIT
 Description: Failed to prevent unauthorized emissions.

- 9 Effective Date: 02/18/2012 ADMINORDER 2011-1328-AIR-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: Flexible Permit No. 9868A and PSDTX102M7 PERMIT
 Description: The facility failed to prevent unauthorized emissions during the incident No. 152189 by failing to meet the affirmative defense criteria (b)(2) and (b)(3) of the provisions of 30 TAC Chapter 101, §101.222(b). This facility is in violation of the provisions of 30 TAC Chapter 116, §116.715(a) and §382.085(b).
 Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter G 116.715(a)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: Flexible Permit No. 9868A and PSDTX102M7 PERMIT
 Description: The facility failed to prevent unauthorized emissions during the incident No. 152427 by failing to meet the affirmative defense criteria (b)(2) and (b)(3) of the provisions of 30 TAC Chapter 101, §101.222(b). This facility is in violation of the provisions of 30 TAC Chapter 116, §116.715(a) and §382.085(b).
- 10 Effective Date: 06/08/2012 ADMINORDER 2011-1680-IHW-E (1660 Order-Agreed Order With Denial)
 Classification: Major
 Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)
 40 CFR Chapter 270, SubChapter I, PT 270, SubPT A 270.1(c)
 Rqmt Prov: IV.B.1 PERMIT
 Description: Failed to prevent the disposal of an unauthorized hazardous waste into a permitted waste management unit. Specifically, the Respondent disposed of 180 barrels of spent caustic waste (Hazardous Waste Code 2908019H) on July 10, 2011 into a permitted surface impoundment (Permitted Unit No. 2, Notice of Registration Waste Management Unit No. 032) which is a unit not authorized to receive this waste.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	September 11, 2008	(700350)
Item 2	October 16, 2008	(705600)
Item 3	October 17, 2008	(705742)
Item 4	November 12, 2008	(707907)
Item 5	November 18, 2008	(708075)
Item 6	December 12, 2008	(710274)
Item 7	December 18, 2008	(721682)
Item 8	January 21, 2009	(724249)
Item 9	January 23, 2009	(724227)
Item 10	March 13, 2009	(738460)
Item 11	March 16, 2009	(722376)
Item 12	March 20, 2009	(739343)
Item 13	April 09, 2009	(702467)
Item 14	June 09, 2009	(748196)
Item 15	July 07, 2009	(759763)
Item 16	September 30, 2009	(776673)

Item 17	December 21, 2009	(786080)
Item 18	December 28, 2009	(786674)
Item 19	March 09, 2010	(793850)
Item 20	March 29, 2010	(797217)
Item 21	April 29, 2010	(800142)
Item 22	May 19, 2010	(803083)
Item 23	May 25, 2010	(802372)
Item 24	May 26, 2010	(824743)
Item 25	July 23, 2010	(842679)
Item 26	August 10, 2010	(843540)
Item 27	October 29, 2010	(872276)
Item 28	December 01, 2010	(879347)
Item 29	January 03, 2011	(886732)
Item 30	January 05, 2011	(886112)
Item 31	January 10, 2011	(886730)
Item 32	February 01, 2011	(890887)
Item 33	February 03, 2011	(892932)
Item 34	May 19, 2011	(921431)
Item 35	July 11, 2011	(937169)
Item 36	July 14, 2011	(937214)
Item 37	July 21, 2011	(937524)
Item 38	August 10, 2011	(942876)
Item 39	October 05, 2011	(937579)
Item 40	October 06, 2011	(957987)
Item 41	October 11, 2011	(962081)
Item 42	November 22, 2011	(969323)
Item 43	March 16, 2012	(994450)
Item 44	September 14, 2012	(1030291)
Item 45	November 07, 2012	(1042066)
Item 46	December 06, 2012	(1050402)
Item 47	December 21, 2012	(1052288)
Item 48	February 05, 2013	(1055773)
Item 49	March 08, 2013	(1073019)
Item 50	March 26, 2013	(1075828)
Item 51	May 09, 2013	(1088079)
Item 52	June 17, 2013	(1095137)
Item 53	June 20, 2013	(1099601)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

Notice of Intent Date: 07/21/2008 (700395)

Disclosure Date: 02/19/2009

Viol. Classification: Moderate

Citation: 40 CFR Part 60, Subpart VV 60.482-2

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(c)(1)(i)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.648(a)

Description: Failure to complete routine method 21 inspections for 14 pumps. In addition, 3 AVO (audible, visual, olfactory) leaks exceeded the required 5 day first attempt at repair.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(h)(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(h)(2)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.648(a)

Description: Unit 28 was found to exceed the 3% difficult-to-monitor valve cap by 3.4 %.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.480

40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-1

40 CFR Part 60, Subpart VV 60.482-7

Published Compliance History Report for CN604065912, RN102495884, Rating Year 2012 which includes Compliance History (CH) components from August 07, 2008, through August 07, 2013.

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162(f)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162(g)

Description: Failure to tag components. Specifically, approximately 97 tags in Unit 9 plus smaller amounts in several other reviewed units were not available in the LeakDAS database.

Viol. Classification: Moderate

Citation: 40 CFR Part 60, Subpart VV 60.482-6
40 CFR Part 63, Subpart H 63.167
40 CFR Chapter 63, SubChapter C, PT 63, SubPT AA 63.648(a)

Description: Failure to close open ended lines. Specifically, 3 open ended lines were found without control by cap, plug, blind, or double block valves.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.486(b)

Description: Failure to fill out all leak tags with appropriate data in Units 6 and 7.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162(a)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162(f)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.162(g)

Description: Failure to meet the 30 day monitoring requirement for 5 management of change components.

Notice of Intent Date: 10/20/2008 (707547)

Disclosure Date: 06/04/2009

Viol. Classification: Moderate

Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.357(d)(2)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.357(d)(5)

Description: Failure to include uncontrolled wastewater streams in the 2007 total annual benzene report and benzene quantity quantifications.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.343(a)(1)(i)(A)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.343(c)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.346(b)(4)(iv)

Description: Failure to properly identify the HP7 recovery system equipment in the 2007 TAB/BQ report as "controlled"; however, the equipment in this area did not meet the physical control requirements (e.g., junction box covers) and the equipment was not included in the BWON program for visual inspections and fugitive monitoring.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.343(c)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.354(d)
40 CFR Part 61, Subpart FF 61.356(f)(2)(i)(G)

Description: Failure to maintain a record of carbon canister design replacement interval for the South Coble carbon canister system.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.342(e)

Description: Failure to comply with BWON regulations as they applied to a Remediation Pilot Project. Specifically, during the audit, the Borger Refinery discovered that BWON regulations applied to the Remediation Project which had been previously installed. The Pilot Project had operated from June 05, 2008 to December 01, 2008 without carbon canister controls on an enclosed Frac tank. Carbon canisters had been added to bring the Pilot Project in compliance with Texas Permit by Rule requirements.

Notice of Intent Date: 03/10/2009 (740239)

Disclosure Date: 12/18/2009

Viol. Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.10

Description: Failure to accurately report remediation fugitives from Emissions Inventory for reporting years 2005 to 2007.

Notice of Intent Date: 05/19/2009 (759301)

No DOV Associated

Notice of Intent Date: 04/05/2010 (826787)

No DOV Associated

Notice of Intent Date: 10/19/2010 (877218)

No DOV Associated

Notice of Intent Date: 02/14/2011 (901451)

No DOV Associated

Notice of Intent Date: 07/10/2012 (1022848)

No DOV Associated

Notice of Intent Date: 07/11/2013 (1104174)

No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PHILLIPS 66 COMPANY
RN102495884**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-0502-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding PHILLIPS 66 COMPANY ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a petroleum refinery at State Spur 119 North in Borger, Hutchinson County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about August 20, 2012, October 16, 2012, and April 9, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Forty-Three Thousand Nine Hundred Thirty-Eight Dollars (\$43,938) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seventeen Thousand Five Hundred Seventy-Six Dollars (\$17,576) of the administrative penalty and

Eight Thousand Seven Hundred Eighty-Seven Dollars (\$8,787) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Seventeen Thousand Five Hundred Seventy-Five Dollars (\$17,575) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. By June 19, 2012, revised the Release Event Reporting Procedures, trained personnel on the importance of timely submitting complete and accurate final records for emissions events, and added a TCEQ/Local Emergency Planning Committee follow-up reminder task in the Environmental Management System (Enviance);
 - b. By September 7, 2012, obtained Standard Permit Registration No. 104928 to operate five temporary boilers as a backup steam supply in order to minimize or eliminate emissions events due to similar causes as Incident Nos. 167930 and 168376;
 - c. By November 15, 2012, revised the Wet Gas Compressor Procedure, replaced the Seal Gas Differential Pressure Control Valve during a Unit 50 Coker shut down, and revised instrumentation and logic on the Unit 50 Coker Wet Gas Compressor in order to prevent a recurrence of emissions events due to similar causes as Incident No. 169193; and
 - d. By November 27, 2013, added steam tracing and insulation to the Unit 58 Deaerator and revised the critical instrumentation winterization preventative maintenance process in order to prevent a recurrence of emissions events due to similar causes as Incident No. 177008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Flexible Permit Nos. 9868A and PSDTX102M7, Special Conditions ("SC") No. 1, and Federal Operating Permit ("FOP") No. 01440, Special Terms and Conditions ("STC") No. 20, as documented during a record review conducted from August 8 through 9, 2012. Specifically, the Respondent experienced 96% opacity and released 63,000 pounds ("lbs") of particulate matter ("PM"), 5,101 lbs of carbon monoxide ("CO"), 435 lbs of sulfur dioxide ("SO₂"), 349.71 lbs of volatile organic compounds ("VOC"), 25 lbs of nickel, 24.12 lbs of nitrogen oxides ("NO_x"), 5.36 lbs of hydrogen sulfide ("H₂S"), and 3 lbs of lead from Emission Point Numbers ("EPNs") 66FL12 and 40P1 during an avoidable emissions event (Incident No. 168376) that began on May 13, 2012 and lasted 334 hours and 48 minutes. The event occurred when the steam supply to the Plant was interrupted due to shut down of Unit 1 at the Blackhawk Power Plant. Since this event could have been foreseen and avoided because it is part of a frequent or recurring pattern, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
2. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Flexible Permit Nos. 9868A and PSDTX102M7, SC No. 1, and FOP No. 01440, STC No. 20, as documented during a record review conducted from August 8 through 9, 2012. Specifically, the Respondent experienced 90% opacity and released 6,800 lbs of PM, 3.5 lbs of nickel, and 0.3 lb of lead from EPN 40P1 during an avoidable emissions event (Incident No. 167930) that began on April 29, 2012 and lasted 16 hours and 11 minutes. The event occurred when the steam supply to the Plant was interrupted due to shut down of Unit 1 at the Blackhawk Power Plant. Since this event could have been foreseen and avoided because it is part of a frequent or recurring pattern, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
3. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Flexible Permit Nos. 9868A and PSDTX102M7, SC No. 1, and FOP No. 01440, STC No. 20, as documented during a record review conducted on September 14, 2012. Specifically, the Respondent released 1,200 lbs of SO₂, 98.88 lbs of VOC, 28.53 lbs of CO, 14 lbs of H₂S, and 9.15 lbs of NO_x from EPN 66FL12 during an emissions event (Incident No. 169193) that began on June 1, 2012 and lasted 49 minutes. The event occurred when the Unit 50 Coker Wet Gas Compressor shut down due to a faulty vibration probe, which resulted in flaring from the Coker fractionators overhead. Since this event was not properly reported, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

4. Failed to submit a final record for Incident No. 169193 no later than two weeks after the end of the emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(b) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on September 14, 2012. Specifically, the final report was due by June 15, 2012, but was not submitted until June 18, 2012.
5. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.715(a), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Flexible Permit Nos. 9868A and PSDTX102M7, SC No. 1, and FOP No. 01440, STC No. 20, as documented during a record review conducted on February 21, 2013. Specifically, the Respondent experienced 74% opacity and released 18,600 lbs of PM, 5,019 lbs of CO, 6 lbs of nickel, and 0.32 lb of lead from EPN 40P1 during an emissions event (Incident No. 177008) that began on December 10, 2012 and lasted 21 hours and 47 minutes. The event occurred when the Unit 40 Boiler tripped due to a false level indication caused by a lack of steam tracing or insulation of the unit. Since this event could have been avoided by better operation practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: PHILLIPS 66 COMPANY, Docket No. 2013-0502-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Seventeen Thousand Five Hundred Seventy-Five Dollars (\$17,575) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pamela Lawrence
For the Executive Director

10/31/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Peter C. Stynes
Signature

June 25, 2014
Date

Peter C. Stynes
Name (Printed or typed)
Authorized Representative of
PHILLIPS 66 COMPANY

Refinery Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2013-0502-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	PHILLIPS 66 COMPANY
Penalty Amount:	Thirty-Five Thousand One Hundred Fifty-One Dollars (\$35,151)
SEP Offset Amount:	Seventeen Thousand Five Hundred Seventy-Five Dollars (\$17,575)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Borger Independent School District
Project Name:	<i>Borger ISD Clean School Bus Replacement Program</i>
Location of SEP:	Hutchinson County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Borger Independent School District** for the *Borger ISD Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel and gasoline buses with newer buses that meet more stringent emission standards. The Third-Party Administrator shall use SEP Offset Amount for up to 100% of the purchase price of a model year 2010 or newer bus to replace a diesel or gasoline school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

PHILLIPS 66 COMPANY
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Borger Independent School District SEP** and mail the contribution with a copy of the Agreed Order to:

Borger Independent School District
200 East Ninth Street
Borger, Texas 79008-1177

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. **Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. **Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. **Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. **Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.